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PATENT

Our Docket: P31 8600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

WAYNE A. BORDER
ERKKI I. RUOSLAHTI

Serial No.: 07/416,656

Filed: October 3, 1989

For: INHIBITING TRANSFORMING
GROWTH FACTOR B TO
PREVENT ACCUMULATION OF
EXTRACELLULAR MATRIX

Group Art Unit

Examiner: 186

I hereby certify that this copy is a true and correct copy of the original as filed in an application for a patent in the United States Patent and Trademark Office, dated 1/10/92.

DEPUTY ASST. COMM.

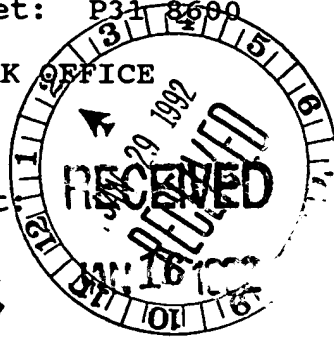
Hon. Commissioner of Patents
and Trademarks
Washington, D.C. 20231

PETITION UNDER 37 C.F.R. 1.83

Sir:

This is a petition to waive in part the requirements of 37 C.F.R. 1.27 and 1.28, and is an extension of the Petition filed May 25, 1990 and the Request for Reconsideration filed November 26, 1990 in U.S.S.N. 07/357,024, filed May 25, 1989 of ERKKI I. RUOSLAHTI. The Request for Reconsideration was granted by Mr. Charles E. Van Horn, Patent Policy and Program Administrator, office of the Assistant Commissioner for Patents, in a decision dated April 5, 1991.

The Petition and the Request for Reconsideration (hereinafter, the "Petitions") were directed to a situation in which small entity status had been established in numerous patent applications (some of which have been issued as patents), by the submission of small entity Declarations by or on behalf of La Jolla Cancer Research Foundation (LJCRF), a non-profit organization entitled to such status. Three such applications were identified in the Petitions as examples of the numerous cases involved. The Decision was rendered in one of the



COMM-2 JAN 7:37

identified applications and the relief request was granted not only for the identified application but for all of the applications and patents owned by LJCRF and involved in the same fact pattern.

As pointed out in the Petitions, LJCRF had certain contracts with Telios Pharmaceuticals, Inc. (Telios), which also qualified as a small entity during all of the relevant time periods, which contracts had been found by patent counsel to require that Telios should also have filed small entity Declarations in these same applications and patents. Although such Declarations had not been filed by or on behalf of Telios, the Decision held that this was because of an excusable misunderstanding.

In the Decision dated April 5, 1991, the Patent Office granted the Petitions, and the Petitioner now respectfully requests that the Decision be extended to include the above-identified application which is subject to the identical circumstances specified in the Petitions. A small Entity declaration executed by Telios is attached as Appendix A, and, for convenience, a copy of the Petition dated May 25, 1990, is attached as Appendix B; a copy of the Decision dated September 25, 1990, is attached as Appendix C; a copy of the Request for Reconsideration dated November 26, 1990, is attached as Appendix D; and a copy of the Decision dated April 5, 1991, is attached as Appendix E.

The fact pattern described in the Petitions is the same that in which the subject application/patent was involved. Accordingly, continued small entity status is appropriate for this case, as set forth in the Decision of April 5, 1991.

The granting of small entity status in the subject application/patent is respectfully solicited.

Respectfully submitted,

1/10/92
Date

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